

**Mosner, Zachary (ATG)**

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**From:** Houghton, Doug (DOR)  
**Sent:** Monday, November 28, 2016 8:07 AM  
**To:** feinstein1947@gmail.com  
**Cc:** Mosner, Zachary (ATG)  
**Subject:** Lodge Holdings Company, Consolidated Case  
**Attachments:** SalesaxDemandLodge.pdf

I am in the process of mailing to you the attached letter for each entity connected with this entity except Charlie's On Broadway LLC (this entity has not filed bankruptcy).

Since time is of the essence, I am sending this letter by Email. All individual letters will be mailed to you today.

***Doug Houghton***

Revenue Agent 4 | Compliance Division  
Washington State Department of Revenue

Seattle District Office | 2101 4th Ave Ste 1400 | Seattle, WA 98121-2300  
Phone: (206) 727-5338 | Fax: (206) 727-5319 | [dor.wa.gov](http://dor.wa.gov) | [dough@dor.wa.gov](mailto:dough@dor.wa.gov)

***Working together to fund Washington's future***

EXHIBIT

1



STATE OF WASHINGTON  
DEPARTMENT OF REVENUE

November 28, 2016

Larry B Feinstein, Attorney at Law  
Vortman & Feinstein  
520 Pike Street, Ste 2250  
Seattle, WA 98101

RE: **Downtown Lodge LLC, 603 390 711**  
**Chapter 11, Case no 16-15852-TWD**

The above debtor has notified us that they have filed a Chapter 11 bankruptcy case on 11/21/16.

Their business by state law has the obligation to collect and remit sales tax to our Department in a timely manner.

The State of Washington, Department of Revenue expects that your client will review their bank accounts to determine whether with the filing of their return post-filing for pre-filing activity that they would have sufficient funds in their account so that the trust funds for that pre-activity will be turn over and paid to us as trust funds that were held in trust prior to their chapter 11 filing.

Sales tax funds are collected in trust and as such are not property of the estate:

**RCW 82.08.050:**

**BUYER TO PAY, SELLER TO COLLECT TAX — STATEMENT OF TAX —  
EXCEPTION — PENALTIES — CONTINGENT EXPIRATION OF  
SUBSECTION.**

(2) The tax required by this chapter, to be collected by the seller, is deemed to be held in trust by the seller until paid to the department. Any seller who appropriates or converts the tax collected to the seller's own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(3) Except as otherwise provided in this section, if any seller fails to collect the tax imposed in this chapter or, having collected the tax, fails to pay it to the department in the manner prescribed

Compliance Division/Bankruptcy Unit  
2101 4th Ave., Suite 1400 ♦ Seattle, WA 98121-2300 ♦ Phone: 206/727-5338 ♦ Fax: 206/727-5319

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by this chapter, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is, nevertheless, personally liable to the state for the amount of the tax.

See also: In re Megafoods Stores, Inc., 210 B.R. 351, 355-57 (Bankr. 9<sup>th</sup> Cir. 1997).; 163 F.3d 1063 (9<sup>th</sup> Cir. 1998).

**We believe that your client's interest in those funds for the month of October that will be due no later than 11/28/16 are merely to hold them in trust and should be remitted to us on or before 11/28/16. The sales tax debt for the October tax return is estimated to be around \$20,000.00. We are requesting that you instruct your client to remit those trust funds over to us no later than 11/28/16. Their November sales tax return should be reported no later than 12/27/16 and they should continually report in a timely manner.**

**If payment is not made by the end of business on Tuesday, November 29, 2016, we will move to shorten time on our pending motion set for 12/23/16 and we will add a turnover motion to the shortening motion.**

If you have any further questions, please contact the undersigned at our Seattle office. Telephone number is: (206) 727-5338.

State of Washington  
Department of Revenue

Doug Houghton  
Revenue Agent 4  
(206) 727-5338

CC: Downtown Lodge LLC  
Zachary Mosner, AAG

Compliance Division/Bankruptcy Unit  
2101 4th Ave., Suite 1400 ♦ Seattle, WA 98121-2300 ♦ Phone: 206/727-5338 ♦ Fax: 206/727-5319

**Mosner, Zachary (ATG)**

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**From:** Larry Feinstein <lbf@chutzpa.com>  
**Sent:** Monday, November 21, 2016 5:00 PM  
**To:** Mosner, Zachary (ATG); Kirkland Lodge; Kathryn Scordato  
**Subject:** Re: Fwd: Re: Lodge Holdings Co.

Hi, Zach:

We have filed all the individual LLC's into Ch. 11, and will be filing a Motion to Consolidate the cases under the lead case of Lodge Holdings Company. But, in the meantime, here are the cases and case numbers:

-Larry

**Chapter 11 Filings**

Case	Case Title	Chapter	341 Meeting	Judge Name
16-15849	Mukilteo Lodge LLC	11		
16-15850	Kirkland Lodge LLC	11		
16-15851	Stadium Lodge LLC	11		
16-15852	Downtown Lodge LLC	11		
16-15853	Mill Creek Lodge LLC	11		
16-15854	Greenwood Lodge LLC	11		

On 11/21/2016 2:14 PM, Mosner, Zachary (ATG) wrote:

Sorry Larry, but you have separate tax reporting for each corporation. The fact that you chose common cash management through a parent holding company has

nothing to do with anything. The holding company owns personal property in your words—shares of stock in the subject corporations and nothing more. You need only file each entity and you render this conversation moot.

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**From:** Larry Feinstein [mailto:lbfe@chutspa.com]  
**Sent:** Monday, November 21, 2016 2:08 PM  
**To:** Kathryn Scordato; Mosner, Zachary (ATG); Kirkland Lodge  
**Subject:** Re: Fwd: Re: Lodge Holdings Co.

Hi, Zach:

I disagree. Lodge Holdings Co. is a holding company that wholly owns each of the 6 restaurants. All of the assets are assets of the estate, and the holding company considers each of the individual LLC's to be assets of the bankruptcy estate. As such, the levy on the earnings (restaurant sales) of each of the restaurants are property of the estate, and covered by the automatic stay. We report all the earnings and income and expenses on a consolidated profit and loss statement, see Schedule I and J to the schedules filed with the court. See attached.

I think the Dept. is violating the stay by continuing levy after the filing on Kirkland Lodge and Mukilteo Lodge. Obviously, we need the cash flow from daily operations to continue to operate, so we would consider a cash collateral agreement to pay the Dept. post-petition on a payment schedule pending a Plan. This might be easier and quicker resolution than just filing more Ch. 11's for each of the entities, an exercise I don't think is required. Mull this over and give me a call or let me know your thoughts.

Larry

----- Forwarded message -----

**From:** Mosner, Zachary (ATG) <ZacharyM@atg.wa.gov>  
**Date:** Mon, Nov 21, 2016 at 1:42 PM  
**Subject:** RE: Re: Lodge Holdings Co.  
**To:** Kathryn Scordato <kpscordato@gmail.com>  
**Cc:** "Houghton, Doug (DOR)" <DougH@dor.wa.gov>, "Roland, Susan (DOR)" <SusanR@dor.wa.gov>, "Garrett, Danielle (ATG)" <DanielleG@atg.wa.gov>, "Ashmun, Glenn (ATG)" <GlennA@atg.wa.gov>

Since only holding company filed Chapter 11, the NWD's are effective and are not stayed as to non-filed entities.

**From:** Kathryn Scordato [mailto:kpscordato@gmail.com]  
**Sent:** Monday, November 21, 2016 12:31 PM  
**To:** Mosner, Zachary (ATG)  
**Cc:** Houghton, Doug (DOR); Roland, Susan (DOR); Garrett, Danielle (ATG); Ashmun, Glenn (ATG)  
**Subject:** Re: Re: Lodge Holdings Co.

Zach - Per your request, attached are the two current levies for the Department of Revenue of the Kirkland Lodge and the Mukilteo Lodge.

Sincerely,  
Kathryn Scordato, Esq.

Vortman and Feinstein

520 Pike Street, Suite 2250

Seattle, WA 98101

Phone: (206) 223-9595

Fax: (206) 386-5355

LARRY B. FEINSTEIN, P.S. CONFIDENTIALITY NOTICE: This communication and any document(s) accompanying it contains confidential information belonging to the sender which may be protected by attorney-client privilege and other privileges pertaining to the documents. I am sure you are not interested in it, and I apologize for taking your time if you received it and have no clue as to why; so if you are not the intended recipient, you are hereby notified that disclosure, copying, distribution, or taking any action whatsoever with regard to the contents of this communication is strictly prohibited, and you can just trash it. Also, let me know by Reply, so I don't send this by error again and waste any more of your time. Thanks.

On Mon, Nov 21, 2016 at 9:54 AM, Mosner, Zachary (ATG) <[ZacharyM@atg.wa.gov](mailto:ZacharyM@atg.wa.gov)> wrote:

Can you get me more information on who did the levy?

**From:** Kathryn Scordato [<mailto:kpscordato@gmail.com>]

**Sent:** Monday, November 21, 2016 9:53 AM

**To:** Mosner, Zachary (ATG); Houghton, Doug (DOR); Roland, Susan (DOR); Horacek, Glenn (ESD); Moore, Kristine (LNI); Garrett, Danielle (ATG); Ashmun, Glenn (ATG)

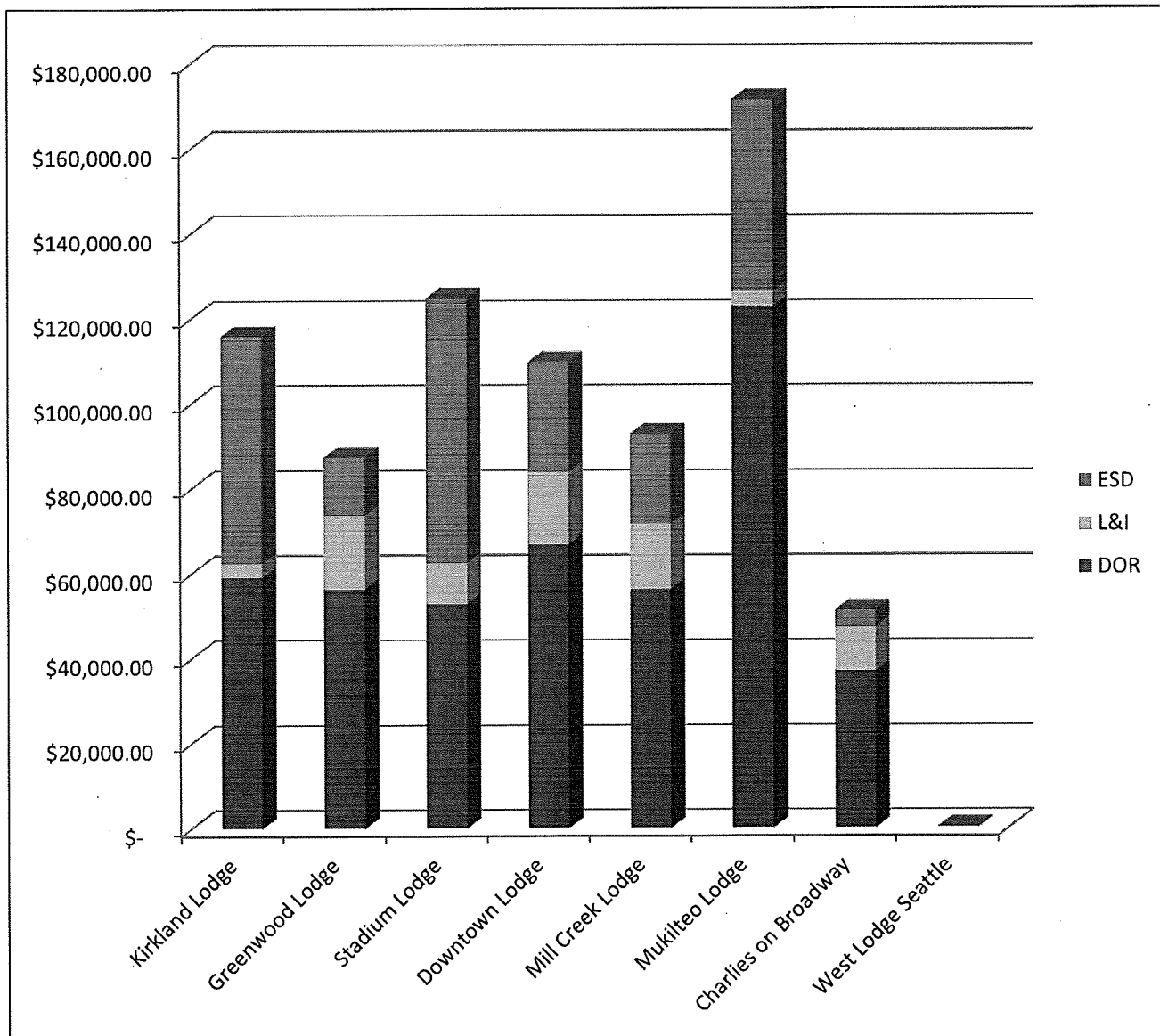
**Subject:** Fwd: Re: Lodge Holdings Co.

Good morning, everyone. I'm not sure who is handling this yet, as the case was just filed on Friday. I realize that it is not even 10:00am yet, but any assistance you can provide with releasing the State's levy on Lodge Holdings Company and any of its DBAs would be most appreciated.

<u>UBI</u>	<u>Restaurant Name</u>	<u>DOR</u>	<u>L&amp;I</u>	<u>ESD</u>
603-168-484	Kirkland Lodge	\$ 59,133.59	\$ 3,387.58	\$ 53,444.35
603-459-667	Greenwood Lodge	\$ 56,453.77	\$ 17,293.14	\$ 13,710.22
603-249-915	Stadium Lodge	\$ 52,886.36	\$ 9,630.00	\$ 62,310.98
603-390-711	Downtown Lodge	\$ 66,850.89	\$ 17,059.33	\$ 25,874.28
603-370-175	Mill Creek Lodge	\$ 56,317.26	\$ 15,426.65	\$ 21,089.27
602-924-158	Mukilteo Lodge	\$ 122,879.31	\$ 3,478.12	\$ 45,148.92
603-528-705	Charlies on Broadway	\$ 36,986.25	\$ 10,368.26	\$ 3,959.14
603-501-869	West Lodge Seattle	\$ -	\$ 252.95	\$ 25.00

Total: \$ 451,507.43 \$ 76,896.03 \$ 225,562.16

Grand Total: **\$ 753,965.62**



**EXHIBIT 3**